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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,516	01/15/2004	William Orman Wollgast	03006	5804

39047 7590 11/28/2006

MACHETTA LAW FIRM, P.C
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EXAMINER

BEACH, THOMAS A

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,516

Applicant(s)

WOLLGAST ET AL.

Examiner

Thomas A. Beach

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on amendment filed 06/30/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 1-4 are objected to because of the following informalities: throughout the claims there is improper capitalization of words; since claim are in one sentence format there should only the first word capitalized. The preamble is vague and indefinite as to whether a skidsteer loader, or a backhoe or similar work-type vehicle is being claimed, furthermore “or similar work-type vehicle” is vague and indefinite on its own since the meets and bounds of what is similar and what is not is not clear. Also, the preamble includes “for use in constructing a skimmer box” which is method claim language in preamble in an apparatus claim which should be deleted. It is unclear from the preamble if an attachment or a skimmer box is to be claimed. On line 6 of claim 1, “the arms” lacks antecedent basis. On line 9 of claim 1, the “two open cutouts” are not functionally related to the other elements and should be claimed with relation to other elements, for example where or on which element the cutouts are made.

Claims 2 and 3 include “#” on lines 1 respectively and should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Pullman 5,909,961.

Pullman discloses a digging attachment and method of constructing that attachment (16) for securement to a work-type vehicle that could be used as a skimmer

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box for a swimming pool, having a connecting frame (24) with extensions (22A) near the bottom of said connecting frame allowing for the connection to a vehicle latching mechanism; a base (16), shaped like a box, with five sides and an open end, including a top side (26/27), a bottom side, a left side (19), a right side (18) and a back side (16) as well as two open cutouts (unnumbered openings on top side); the said open side has edges (60) that are shaped to cut through the surface; the back side of said base (16) connected perpendicular to said connecting frame (14) and near the bottom so that the base is directed just above the latching mechanism and along the opposite side of the extensions providing support when the vehicle is attached.

Claim Rejections - 35 USC § 103

3. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pullman 5,909,961 alone.

As concerns claims 2-3, it would have been an obvious matter of design choice to modify Pullman to include the range of as 15 to 30 inches wide by 15 to 30 inches high by 15 to 30 inches deep (claim 2), or 24 inches wide by 28 inches high by 28 inches deep (claim 3) since applicant has not disclosed that these ranges solve any particular problem or purpose and it appears other similar ranges would work equally well.

Furthermore, routine experimentation would lead one of ordinary skill in the art to these ranges.

Response to Arguments

4. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Beach whose telephone number is 571.272.6988. The examiner can normally be reached on Monday-Friday, 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571.272.6998. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

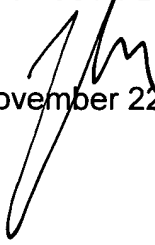
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Thomas A. Beach

November 22, 2006

A handwritten signature in black ink, appearing to be 'T. Beach', written over the date.

THOMAS A. BEACH
Primary Examiner
Group 3600